

Docket No.: 0230-0219PUS1  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Atsushi NAGASAWA et al.

Application No.: 10/520,349

Confirmation No. 5681

Filed: September 12, 2005

Art Unit: 1794

For: NOVEL BAKERS' YEAST STRAINS AND  
BREAD MADE USING THE SAME

Examiner: H. R. BADR

**LETTER**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to the filing of an "Amendment in Response to Non-Final Office Action" on December 8, 2008 in connection with the above-identified application, please find attached the "Declaration Regarding Deposit of Microorganisms" referred to in the Remarks section of the Amendment. Please include this Declaration as part of the application file.

Dated: DEC 17 2008

Respectfully submitted,

By Mark J. Nuell  
Mark J. Nuell

Registration No.: 36,623  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
12770 High Bluff Drive, Suite 260  
San Diego, California 92130  
(858) 792-8855  
Attorney for Applicants

Attachment: Declaration

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DECLARATION REGARDING DEPOSIT OF MICROORGANISMS

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Haruhiko YAMADA, do hereby declare as follows:

I am an officer of Japan Tobacco, Inc., the assignee of the above-identified application, with an office at 2-1 Toronomon 2-chome, Minato-ku, Tokyo 105-8422, Japan, as evidenced by an Assignment recorded at reel 016970, frame 0839.

Cultures of the following microorganisms were deposited under the terms and conditions of the Budapest treaty at the National Institute of Advanced Industrial Science and Technology, Central 6, 1-1-1 Higashi, Tsukuba, Japan, on the indicated date.

<u>Deposit Date</u>	<u>Scientific Description</u>	<u>Depository Designation</u>
June 20, 2002	<i>Saccharomyces cerevisiae</i> FT-4	FERM BP-8081

The above depository affords permanence of the deposit and ready accessibility thereto by the public if a patent is granted, under conditions which assure (a) that access to the culture will be available during pendency of said patent application to one determined by the Commissioner to be entitled thereto under 37 C.F.R. § 1.14 and 35 U.S.C. § 122, and (b) that all restrictions on the availability to the public of the above-mentioned culture will be irrevocably removed upon the granting of a patent from the above-identified application.

The above deposits are referred to at page 4, lines 25-29 of the above-identified application and are identified by deposit number and name and address of the depository. The taxonomic description to the extent available is included in the specification.

The undersigned hereby assures the permanent availability of said culture to the public through the above depository and in the event that any of the strains should become non-viable, mutate or inadvertently be destroyed, the undersigned will replace the strains at the above-mentioned depository.

The above-mentioned deposit will be maintained (1) for thirty (30) years from the date of deposit, (2) for five (5) years after the last request for the deposit at the depository which is made during the enforceable life of any patent which will issue from the above-identified application or (3) for the enforceable life of any patent which issues from the present application, whichever is longer.

Attached hereto is a copy of paper(s) from said depository evidencing the agreement between said depository and the depositor.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: November 25, 2008

By 

Print name Haruhiko YAMADA

Title Head of Legal Division